

## OFFICE OF GENERAL COUNSEL

## M E M O R A N D U M

TO: Chief, Dockets Division

FROM: Associate General Counsel, Litigation Division

SUBJECT: Cablevision Systems Corporation v. FCC & USA, No. 94-1280. Filing of a new Petition for Review in the United States Court of Appeals for the D.C. Circuit.

DATE: April 6, 1994

Docket No(s). GEN 90-314

File No(s). RM-7140, RM-7175, RM-7618,  
PP-6 through PP-10, PP-12, PP-13,  
PP-15 through PP-20, PP-26, PP-27,  
PP-41 through PP-52, PP-54 through  
PP-68, PP-70, PP-72 through PP-78

This is to advise you that on March 30, 1994, Cablevision Systems Corporation, filed a Section 402(a) Petition for Review of the FCC decision: In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, FCC 93-550, released February 3, 1994, in the United States Court of Appeals for the District of Columbia Circuit.

In the order under review, the Commission granted pioneer's preferences to three applicants for personal communications services (PCS) licenses while denying the pioneer's preference requests for 47 other applicants. The petitioner, whose pioneer's preference requests were denied, claim that the FCC arbitrarily misapplied its pioneer's preference criteria in this proceeding.

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed this case as No. 94-1280 and the attorney assigned to handle the litigation of this case is James Carr.

Daniel M. Armstrong

cc: General Counsel  
Office of Public Affairs  
Shepard's Citations

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CABLEVISION SYSTEMS CORPORATION,  
Petitioners,  
v.  
FEDERAL COMMUNICATIONS COMMISSION and  
UNITED STATES OF AMERICA,  
Respondents.

Case No. 94-1280  
3/30/94

Petition for Review

Cablevision Systems Corporation ("Cablevision"), by its attorneys, pursuant to 28 U.S.C. §§ 2342 and 2344, 47 U.S.C. § 402(a), and Rule 15 of the Federal Rules of Appellate Procedure, petitions this Court for review of the Federal Communications Commission's ("Commission") Third Report and Order in its docketed proceeding In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, RM-7140, RM-7175, RM-7618, PP-6 through PP-10, PP-12, PP-13, PP-15 through PP-20, PP-26, PP-27, PP-41 through PP-52, PP-54 through PP-68, PP-70, PP-72 through PP-78 (released Feb. 3, 1994) ("Third Report and Order").<sup>11</sup> A summary of the Commission's Third Report and Order appeared in

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<sup>11</sup> Given that an award of a pioneer's preference does not constitute grant of a Commission license, Cablevision seeks review pursuant to 47 U.S.C. § 402(a) in lieu of an appeal pursuant to 47 U.S.C. § 402(b). Should the Court find otherwise, Cablevision requests that its petition for review be considered as a timely notice of appeal.

the Federal Register on February 28, 1994. A copy of the summary is attached in Appendix A.

In its Third Report and Order, the Commission granted three requests for pioneer's preferences<sup>2/</sup> for the provision of broadband Personal Communications Services ("PCS") in the 2 GHz band.<sup>3/</sup> In so doing, the Commission denied the requests of 47 other applicants, including Cablevision. Relief is sought on the grounds that the Commission's order is arbitrary, capricious and otherwise contrary to law. Venue is proper pursuant to 28 U.S.C. § 2343.

Cablevision requests that this Court enjoin, set aside or hold unlawful the Commission's Third Report and Order and grant such other relief as it deems appropriate.

Respectfully submitted,



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<sup>2/</sup> The Commission's pioneer's preference rules are codified at 47 C.F.R. §§ 1.402, 1.403, 5.207 (1992).

<sup>3/</sup> The Commission's rules define PCS as "radio communications that encompass mobile and ancillary fixed communication that provide services to individuals and businesses and can be integrated with a variety of competing networks". See 47 C.F.R. § 99.5 (1993).